

SB4 Testimony

SENATE TAXATION

EXHIBIT NO. 1

DATE 1-24-2013

BILL NO. SB 4

Mister Chairman, members of the committee, for the record my name is Alan Peura, that is spelled P-E-U-R-A, and I am the deputy director of the Montana department of revenue. The department is here today as a PROPONENT for SB4, a bill that would shorten the property reappraisal cycle from six-years to two-years and then one-year.

Mister Chairman, imagine a world without phase-in... a world where taxpayers and policy makers have a better opportunity to understand the property tax system, their property values, and their property tax bills because you have eliminated the calculus-level mathematics caused by the phasing in of values through the six-year reappraisal cycle.

I believe that all of you have struggled mightily to first understand the complex math of the phase-in, and then struggled mightily to try to explain that to your constituents. And we know from all of the testimony that we have heard, the AB-26's filed that taxpayers certainly struggle mightily with the huge complexities of phase in.

Imagine all of that going away and instead the property tax system is much easier to understand...well, mister chairman, that is what SB4 does...

What I would like to do is take a moment to point out the numerous taxpayer advantages that result from SB4, the policy maker advantages that result from SB4, the legal/litigation advantages that result from SB4, and then address the fiscal note.

First... Taxpayer Advantages Resulting From SB4

By eliminating the six-year reappraisal cycle, SB4 would create the following advantages for Montana property taxpayers:

- Increased transparency in property taxation that will allow taxpayers to understand the taxable value of their property and the resulting tax bill because the values are "real time" rather than six year old values with a 16.6% phase in addition each year (here is where the higher math starts..what is the value of your home right now...it is the 2003 appraised value plus 66.4% of the difference between the 2009 reappraised value and the 2003 value...and of course the exemptions and rates change each year as well...higher math)
- Better **equity and fairness** for taxpayers across Montana by eliminating the gap between the "real time" market value of their property and the taxable value
 - Values more accurately reflect the actual market conditions (remind of Finch report...equity and fairness)
- Eliminate the cyclical sticker shock that taxpayers experience each time their property values are updated during the sixth year of the cycle (how many of you heard from your constituents about their incredulity about seeing 45% increases in value at the end of the last six-year cycle...this bill would

eliminate that six-year sticker and instead see marginal changes each year that may be up or down as the market fluctuates)

- Reduce the cost and inconvenience of the majority of taxpayer appeals that result solely from the sticker shock concerns coupled with the complexity of determining their taxable value with the phase-in mechanism (the majority of our AB26's were reactions to sticker shock)
- Eliminate the risk of a major property tax shift that is likely to occur as a result of pending litigation (see attached information regarding pending litigation)
- Eliminate the huge fiscal risk to the State of Montana that is likely to occur as a result of pending litigation (see attached information regarding pending litigation)

There are also operational changes to property tax administration required by SB4 that would create the following advantages:

- Imagery data that can be used to improve disaster and emergency preparedness and planning at the state and local government levels; enhance city/county infrastructure planning and development; enhance state and local government land use planning ... essentially imagery creates data to assist many other vital services and that is part of the operations of this bill...this imagery data can be leveraged to improve a number of other services in Montana.

Mister Chairman, I would also point out the advantages to you and all policy makers from SB4...

Policy Maker Advantages Resulting From SB4

- Eliminating the six-year cycle will eliminate the drain on legislative/executive time and resources every third legislative session that requires special committees and extensive resource investment to develop a bill to mitigate the impact of placing the updated six-year values onto the tax rolls
 - This expands the time for policy makers to address other property tax policy matters other than simply mitigating the impact of reappraisal (Some of you may remember how much of your bandwidth was taken up in the 2009 session on one bill...to mitigate the 2009 reappraisal)
- County Commissioners will also see great advantages to their local finance and budget process under SB4 as it will eliminate the every six year budget crises that occur in many counties, Lake County was the best example in 2009, when commissioners set their mills based upon the original certification of values, but then, because of AB26's and appeals, the county lost taxable value but with the mills set, their budgets are frozen and the counties then experience severe budget problems...as this committee will recall this issue caused you great consternation and you asked for a legal opinion from your staff to seek a solution...and the conclusion was that there is no solution to this problem...but SB4 will eliminate this issue by eliminating the six year sticker shock, reducing the volume of property tax protests and thus not put this pressure on county budgeting...I would expect that MACo would be supporting SB4...
- County Treasurers will see two major advantages under SB4:
 - First, the tax bills that they send out each year will be much more clear, transparent and understandable to their taxpayers...I know that Treasurers, for good reason, struggle each year under the six year phase in, to explain tax bills...I recall attending the Treasurers annual

- meeting in late 2009 where they expressed great consternation about how the phase in makes the property tax process too complicated...that will disappear under SB4
- Second, for Treasurers, we can expect and the data bears this out, that the number of residential, commercial and agricultural appeals and protests will greatly diminish under a one-year reappraisal process...I know that protested taxes make local government finance extremely difficult for Treasurers as well as schools, and under SB4 experience and data indicates a dramatic decrease in property tax protests...therefore I would expect that county treasurers should be supporting SB4
 - Cities will see advantages under SB4, specifically a number of cities experienced "over mitigation" in the 2009 reappraisal cycle...Butte is the prime example...where HB658 of 2009, the bill to mitigate the impact of reappraisal addressed the statewide average and in cities that saw value increases LESS THAN the statewide average, like Butte, they saw their values increase much less than expected and that significantly set back their anticipated budgets...so I would expect Montana Cities and Towns to be supporting SB4 as it solves what has been a major city challenge under the six year cycle

Mister chairman...there are also major legal and litigation advantages that SB4 brings...

1. The passage of this bill will eliminate the phase-in of market valuation of a taxpayer's property currently required under the 6-year appraisal cycle. Beginning with Roosevelt v Department of Revenue, the phase-in of values has caused numerous appeals before the State Tax Appeals Board and the courts. Most recently, the six year phase-in of agricultural properties is being challenged in the district court in Lucas v. DOR and is currently under consideration as a class action lawsuit. The legal and fiscal risks of Lucas are significant and SB4, by eliminating phase-in, eliminates the very problem at the heart of this suit that has ag producers so upset, as evidenced by the Lucas case. ... I would expect that the ag lobbyists and producers today would stand in support of SB4, after all they brought litigation against the phase-in saying it is unfair and too complex, so I would expect that they should be supporting a bill that solves that fairness and complexity problem...by eliminating the phase-in SB4 represents a solution to their cause of action...
2. At this point, costs enumerated in the SB4 fiscal note for may seem high but not if you consider the exponentially higher costs to state government if the current 6-year cycle is challenged and overturned by the Montana Supreme Court. While the 6-year cycle is currently considered constitutional, the viability of the 6-year cycle is being questioned in Covenant Investments v. DOR, and several other active cases, where the taxpayers are asking for mid-cycle reappraisals of values because of the recent recession (I would like to distribute the district court decision). As you can see, in Covenant, the district court has determined that the six-year cycle is unconstitutional, and ordered

mid-cycle reappraisals. If the department is required to do mid six-year cycle reappraisals across Montana, as this case directs, I can assure you that the cost associated with that process will be multiples higher than the SB4 fiscal note. The Covenant matter is on appeal before the Supreme Court, but there are more cases similar to this in other district courts, including the American Savings case pending in district court in the Flathead. This type of litigation will be moot should Senate Bill No. 4 pass as the reappraisal values will track with the market and eliminate the six year time lag that creates the disconnect from the market.

Mister chairman...finally, if I could review the fiscal note...go over this document...

It is important to note, however, that there are cost reductions that result from SB4 that are not able to be captured by the fiscal note but they are real savings over the course of every six year period.

Fiscal Note and Cost Reductions That Occur Resulting From SB4

Eliminating the six-year phase-in under current law, SB4 would also result in the following cost savings.

- HB658 Administrative Costs in Year #1 = \$3.07 million
- HB2 OTO Appropriation in Year #5 = \$1.95 million
- Eliminate Extended Property Tax Assistance Program (EPTAP) All Years = \$110,883
 - **SIX YEAR TOTAL SAVINGS = \$5.69 Million (\$947,559/year)**

Given the nature of the fiscal note process the SB4 fiscal note does not record these cost savings that are directly related to the elimination of the six-year cycle. But the actual fiscal impact of SB4 is approximately \$1.0 million per year *less* than what appears on the face of the fiscal note document, as these \$5.69 million costs will be eliminated. The fiscal note may also be addressed by leveraging the costs of imagery.

Therefore, mister chairman...given these advantages to taxpayers, to policy makers, to all levels of local government, given the assets that imagery provides to state and local government and perhaps most important, given that we already have a district court that has found the six-year cycle to be unconstitutional and there are more cases behind this...given all of these points, the department strongly urges the committee to pass SB4.

With me today, mister chairman, is our property tax administrator, Cynthia Monteau Moore, who will give you a quick walk through of the bill. Thank you mister chairman.